

September 17th, 2008
NOTICE OF REGULAR MEETING AND PUBLIC HEARING MEETING OF THE
BENTON COUNTY PLANNING BOARD

WHEN: September 17, 2008
TIME: 5:30 p.m. The Benton County Planning Board will meet to receive Public Comments on any of the proposed projects on the agenda.
PLACE: Benton County Administration Building, 215 East Central Avenue
Quorum Courtroom, 3rd Floor (Suite 324), Bentonville, AR 72712

MINUTES FOR REGULAR PUBLIC HEARING

1. Call to Order

2. Roll Call

The following Benton County Planning Board members were present: Scott Borman, Mark Curtis, Mark Gray, Caleb Henry, Bill Kneebone and Heath Ward; Tim Sorey was absent.

The following Benton County Planning Office staff members were present: Ashley Pope, Ronette Bachert, Teresa Sidwell, and Karen Stewart.

3. Disposition of the Minutes of August 6, 2008 technical advisory committee meeting and the August 20, 2008 public hearing meeting as distributed.

Mr. Borman made a motion to accept the meeting minutes as distributed; Mr. Gray seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone and Mr. Ward all voted in favor of the motion; the motion was passed.

4. Reports of Planning Board members

Mr. Ward stated that the by-laws state that a Board member cannot succeed his or herself, so although Mr. Borman would be eligible to become the chairman of the Planning Board, he was not eligible to be the vice-chairman. Mr. Ward said "Since he cannot succeed himself, I have to declare that selection null and void. So at this time we will open the floor for nominations."

Mr. Borman made the motion to cease nomination; Mr. Kneebone seconded the nomination.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone and Mr. Ward all voted to cease nomination by a show of hands.

Mr. Borman nominated Mr. Henry as vice-chairman of the Benton County Planning Board; Mr. Gray seconded the nomination.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone and Mr. Ward all voted in favor of the nomination; Mr. Henry was appointed as vice-chairman.

Mr. Ward congratulated the incoming vice-chairman.

5. **Public Comment**

Mr. Ward opened the floor for public comment. He stressed that if any individual would like to say anything to the Planning Board that now was their opportunity in a public forum to voice their opinion concerning anything that was on the agenda or anything they wished to express to the Planning Board in general. Showing no public comment; public comment was closed.

6. **New Business**

A. Large Scale Development - **ServiceMaster** - 9949 E. Highway 72, Bentonville

The stipulations from the TAC meeting of 9/3/2008 were as follows:

- Obtain a permit from the Health Department for the well on site.
- The septic system must be upgraded within 90 days. The proposed waste disposal until the septic system is upgraded must be documented and submitted to the Board.
- Show 3 - 4 additional parking spaces on the site plan; the parking spaces must be located to the rear of the building and may be graveled (rather than paved).
- The applicant must connect to the Pea Ridge water when it becomes available and should ensure that the well on site is properly abandoned.
- Add a disclaimer to the site plan stating that it is not a legal survey; also note by whom the site plan was prepared.
- Note the current property owner's name on the site plan.

Marshall Henson and Dave Montgomery represented the large scale development application.

Mr. Ward asked Ms. Pope to report on the progress of the stipulations for this project. Ms. Pope stated concerning the first stipulation to obtain a permit from the Health Department for the well on site, the applicant submitted a letter from the Health Department stating that they do not certify wells, they only regulate that a well must be 100 feet from any part of a septic system. Ms. Pope stated, "However, I do know that they permit semi-public wells." Mr. Borman stated that the applicant did not have enough employees to qualify. Ms. Pope replied that she felt due diligence had been done. She stated that concerning the second stipulation the applicant had submitted a letter stating that he will upgrade the septic system within 90 days. Ms. Pope added that they have submitted a site plan showing additional graveled parking spaces as requested. She said that the applicant had submitted a letter from Pea Ridge stating

that they anticipate connection to the Pea Ridge water system by the end of the year. Ms. Pope stated that a disclaimer to the site plan had been added stating that it is not a survey and they had noted the property owner's name on the site plan.

Mr. Ward asked Ms. Pope about the letter concerning the septic system. He believed that the discussion had been that the Board would give the applicant 90 days. Mr. Ward asked if the applicant had submitted a written plan for disposal. Ms. Pope said that the applicant's plan (she believed) was to dispose of it at his current location until he could upgrade the system. She inquired if that was correct; Mr. Henson stated it was correct.

Mr. Henry stated that he didn't have the benefit of attending the technical review meeting and asked if there were any issues concerning access to Highway 72. Mr. Ward stated that it was discussed and the present location in the photos looked fine. Mr. Henry asked if the property had an existing driveway. Mr. Ward answered that it is an existing drive and an existing building. Mr. Henry inquired if there were issues concerning the existing septic system. Mr. Ward stated that it was under-sized.

Mr. Curtis made a motion to approve the project; Mr. Kneebone seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone and Mr. Ward all voted in favor of the motion; the motion was passed.

B. Informal Plat - **Strawberry Hill** - 22466 Slate Gap Road, Rogers

The stipulations from the TAC meeting of 9/3/2008 were as follows:

- The correct name for the subdivision must be noted on the plat.
- The applicant must submit perc data to Staff.
- A vehicle turn around at the end of the road is required for Emergency Services and must be reflected on the plat.
- A letter of approval from the fire protection agency must be submitted to Staff.
- The plat needs to reflect the contours at 2 foot intervals.
- A complete set of covenants detailing the responsibilities for road maintenance and septic systems, including force main runs, must be submitted to Staff.

Shirley Lowry represented the informal plat application.

Ms. Pope informed the Board that the subdivision name on the plat had been corrected. She added that some information for the type of pump to be used had been submitted. Ms. Pope asked Ms. Lowry if she had submitted perc data. Ms. Lowry replied that she had sent a letter from Rebecca Corbitt but didn't know if that qualified. Ms. Pope stated that she would come back to that subject. She added that there was a vehicle turn around identified on the plat as requested. Ms. Pope stated that Staff had received a letter of approval from the fire department, received

contours on the project, and a complete set of covenants including statements that the property owners will maintain their own septic systems.

Mr. Ward inquired about mention of road maintenance in the covenants. Ms. Pope read from the covenants that '...each property owner shall share in the cost and maintenance of the common road and shall pay upon demand of the POA, their expense pro-rata share of the maintenance.' She added that the covenants specified a POA which would administer the maintenance of road. She stated that part of the reason the Board requested 2 foot contours was to look at slope and the type of grade the lateral fields would have to traverse.

Mr. Ward asked if there a fire letter had been submitted. Ms. Pope reiterated that there was a letter from the fire department. Mr. Ward stated that the only question left is the question of the perc data. Ms. Pope agreed and added that Staff also required approval of the turn around. Ms. Lowry stated that she thought that Will Hanna had approved the turn around when he had looked at the property, but she wasn't aware if he had written it in his letter. She added that the turn around is big enough for large construction trucks to take building material to tract B. Ms. Lowry stated that she could get whatever was needed from Rebecca Corbitt and that she would be glad to pursue it further.

Ms. Lowry stated that she thought the question last time was the ability of a pump to pump that distance and that high so she focused on getting information on the kind of pumps needed for the project. Mr. Curtis asked for clarification about the pumps' ability to pump uphill 100 feet. Ms. Pope passed documents to Mr. Borman and asked him to answer the question. Mr. Borman inquired which model pump the applicant would be using. He added that the size of the pump makes a difference; one pump may operate on the very edge of its capacity while a slightly larger pump may easily do the job. Mr. Borman asked for the model number, since there were about eight different pump curves in the documentation that he had received.

Ms. Lowry stated that the houses were probably not going to be built for about eight years. She stated that the cost cannot be determined until the septic system has been designed and the septic system cannot be designed until the house is built and the property is being purchased for retirement homes that will be built 8 to 10 years down the road. Mr. Borman pointed out that 8 to 10 years down the road someone would have to deal with it. Ms. Lowry commented that Rebecca Corbitt had been recommended by the soil professor at the University of Arkansas. She added that Ms. Corbitt had gone to the property and found the leach fields. Ms. Lowry commented that when she spoke to Ms. Corbitt the other day, Ms. Corbitt said that she deals with this all the time and the property is not nearly as far to pump and as high as property at the Lost Bridge Village. Mr. Borman agreed and said that he didn't have a problem with where they were proposing the location of the lateral lines. Mr. Borman added that Remco makes a decent system; he stated that the issue is that he doesn't know which Remco system is being recommended. Ms. Lowry asked Mr. Borman to instruct her on what she needed to do to satisfy the Board's requirements. Mr. Borman said Ms. Lowry needed specifics with regard to what the system is going to do and how it is going to do it. Mr. Borman stated that Ms. Lowry should contact Remco and ask for the exact specifications for the pump that is being proposed for a waste water system and include the pump model and the

pump curve for that specific model. He added that when the information is provided to the Board there should be no problem.

Mr. Borman commented that he had no problem with what Ms. Corbitt was doing in regards to the lateral system and the soil but he does have a problem with the pump system. He stated that the main is under pressure all the time and that is why this has to be right and we have to know who is doing the maintenance on it. Mr. Borman said that if a forced main plugs up, it will cause a big problem. He added that the sewage will be going uphill and if it were to break the sewage will go right back to the lake.

Ms. Lowry asked if she should have a system designed. Mr. Borman stated that Remco can recommend a designed system for this purpose and the applicant will need to bring back that information to the Board because basically you are going to run a small decentralized waste water system with forced mains. Ms. Lowry commented that there would be separate leach fields for each house and each house is going to have its own line going up to that leach field. Mr. Borman replied that the Board needs that documented.

Mr. Ward asked about the perc data. Ms. Pope said that the applicant had a letter from Rebecca Corbitt who stated in her letter that she believes the system will be permitted by the Health Department but Staff has not received an approval letter from the Health Department. Mr. Borman stated that without the perc data the Health Department will not approve the lateral system. He added that you can't have one without the other. Ms. Pope replied that the letter from Rebecca Corbitt states that she doesn't anticipate a problem but this will have to be approved by the Health Department first. Mr. Borman agreed and added that he would not be comfortable until the Board gets more information. Ms. Lowry said that she has no problem getting that information.

Ms. Lowry stated that she was having a hard time understanding because she is a novice and thought that when Rebecca Corbitt went out and did the perc test and the applicant had the fields surveyed and finalized with Benton County that the applicant had done what was required. Mr. Borman said that these are two separate issues; one is the lateral fields with the perc test and all the other stuff with Ms. Corbitt but the Department of Health approval is still required. He added that the second issue is the method by which the waste water is being transported up the hill to the laterals lines or septic tanks. He reiterated that the Board needs to see how it is going to be laid out for each individual house as well as the other stipulations for the Board. Mr. Borman stated that the applicant should show the three individual systems, location of where the mains are going to be, and specifications for the pumps to make sure they are going to be capable of getting a hundred feet of lift and probably some type of mitigation in case the forced main were to malfunction. He added that the Board needs documentation stating the responsible party for shutting down the system. Mr. Borman stated that the property's proximity to the Lake makes any potential malfunctioning of the system a cause for concern. Ms. Lowry commented that the plan was to locate the sewage lines in the utility easement that is located by the road. Ms. Pope replied that more detail needed to be shown. Mr. Ward added that more detail is needed and understood that Ms. Lowry has acted in good faith but as close as this property is to the lake and with the potential of a

forced main leak, as part of the approval process the Board needs to know the pump specifications and where the proposed lines will run.

Mr. Ward suggested that Mr. Borman was referring to an emergency shut off valve that would shut the system down quickly. He reiterated that the Board absolutely does need more detail. Mr. Borman added that it may be that the Board would require the entire length of the pipe to be encased or other options. He stated that the Board would like to see what the applicant comes back with first.

Ms. Pope added that it sounds like the Board is asking for a design. Mr. Henry suggested that it was essentially a feasibility study. He added that the applicant needed to consult a design professional to lay the project out, do all the calculations, and specify the proper pump. Ms. Lowry asked the Board if Rebecca Corbitt was qualified to design the system. Mr. Ward commented that the applicant needed to do that research on her own. He suggested that the first thing to do is to determine the type of pump to be used and then go to the vendor to see what type of engineering support the vendor could give. He added that sometimes vendors will do these things at no additional charge. Ms. Lowry commented that the planning process has been a good thing and that she was not objecting. Ms. Pope asked the Board if a professional engineer typically designed septic systems. Mr. Henry and Mr. Borman answered yes. Mr. Borman commented that the Department of Health will ask the same questions and will require a P.E. (professional engineer) signature.

Mr. Borman made a motion to table the project until the next regularly scheduled public hearing meeting; Mr. Henry seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone and Mr. Ward all voted in favor of the motion; the motion was passed.

Mr. Ward added that it was strongly recommended that the applicant contact Staff to ensure that all the stipulations are met so that the applicant would not have to continue to return to the Board month after month.

C. Variance from Tract Split Regulations - **Dena Tipton** - 8842 Panorama Road, Rogers

The stipulations from the TAC meeting of 9/3/2008 were as follows:

- Kennedy Road must be shown on the plat.
- The power line easement on Tract 2 needs to be reflected on the plat.

Robert Whitley represented the applicant for variance from tract split regulations.

Mr. Whitley stated that he was asked to put a few more things on the plat. He added that he had submitted the corrected copies and would be happy to answer any questions from the Board. Ms. Pope replied that she had reviewed the plat briefly and

it appears to meet the stipulations. She added that she had no objection to the family tract split.

Mr. Curtis made a motion to approve the tract split; Mr. Borman seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone and Mr. Ward all voted in favor of the motion; the motion was passed.

D. Large Scale Development - **TradeWind Energy, LLC** - 15251 Beaty Road, Sulphur Springs

There were no stipulations for this project.

Aaron Weigel of TradeWind Energy, LLC represented the large scale development project.

Ms. Pope stated that this project was a variance request from the wireless communication ordinance and that the applicant was requesting a variance from the structural requirements that the Board asks for on cell towers which is 70 miles per hour with a half inch of ice accumulation. She commented that the applicant's meteorological tower is 65 miles per hour with a half inch of ice accumulation. She added that the Benton County Attorney opined that it should be considered under the Benton County Cell Tower Ordinance and since the applicant cannot meet the structural requirements it has been brought before the Board. Mr. Borman confirmed that the tower was for metrological purposes only. He enquired if a communications company were to ask if something could be hung from the tower would the answer be no; Mr. Weigel stated that the answer would be no and that the tower was for the sole purpose of collecting data. Mr. Ward added that it would not support what a communication company would need. Mr. Weigel agreed that it would not safely support the equipment needed for a cell tower. Mr. Ward commented that once the testing was complete the tower would be removed; Mr. Weigel agreed. Mr. Curtis asked about protection of the tower from cattle; Mr. Weigel said that they would put a cattle guard around it if the land owner requested it. Ms. Pope suggested that the Board add two conditions of approval: place a cattle guard around the tower and also that the tower would be removed when testing ceases.

Mr. Weigel inquired about the five year timeline. Mr. Borman replied that the length of the lease was five years; Mr. Weigel agreed and stated that he would have no problem with returning to the Board after five years for further review if the testing was not complete.

Mr. Curtis made a motion to approve the variance request with the conditions that the applicant will place a cattle guard around the tower, the tower will be removed when testing has ceased, and the applicant must return to the Board if the testing is not completed in five years. Mr. Borman seconded the motion.

Mr. Borman, Mr. Curtis, Mr. Gray, Mr. Henry, Mr. Kneebone and Mr. Ward all voted in favor of the motion; the motion was passed.

Discussion of the project was concluded.

Mr. Ward asked for any last comments or announcements. Ms. Pope replied that she was trying to pick a date for a workshop in October. After further discussion, Staff and the Board agreed that the all-day workshop would be held October 22 somewhere in the Bentonville area. Mr. Ward asked Ms. Pope to draft an agenda for the meeting. Ms. Pope asked the Board to email her with any items they would like on the agenda. Mr. Ward suggested that the workshop include discussion on what falls under what regulations and what can be handled administratively based on the project size and scope and further define those regulations.

Ms. Pope stated that there would be a conference for the Arkansas Chapter of the American Planning Association at Mount Sequoyah in Fayetteville on October 23rd and 24th. She added that if any of the Board members were interested in attending the conference that the fees would be paid. Mr. Ward inquired as to when the Board members would need to get back to her on that subject. Ms. Pope replied that she would need confirmation by the first of October. Mr. Curtis asked Ms. Pope to sign him up for the conference.

Ms. Pope added that she was working diligently on a scheduled time for a zoning meeting in October but she did not have a definite date set at this time.

7. Adjournment

The meeting was adjourned at 6:15 p.m.

Respectfully submitted,

Ashley E. Pope

Planning Director